

**MINUTES OF LAYTON CITY
COUNCIL SPECIAL MEETING**

JULY 16, 2014; 6:37 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT:**

**MAYOR BOB STEVENSON, JOYCE BROWN,
TOM DAY, AND JOY PETRO**

ABSENT:

JORY FRANCIS AND SCOTT FREITAG

STAFF PRESENT:

**ALEX JENSEN, GARY CRANE, DAVE THOMAS,
ED FRAZIER AND THIEDA WELLMAN**

The meeting was held in the Northridge High School Auditorium.

Mayor Stevenson welcomed everyone and explained that he would go through a slide presentation and then answer questions. He thanked everyone for their time.

AGENDA:

FIBER OPTIC NETWORK UPDATE/MACQUARIE PROPOSAL DISCUSSION

Mayor Stevenson indicated that no decision had been made on the Macquarie proposal to the cities. This was an information gathering period, and Layton City wanted public input.

Mayor Stevenson reviewed information in the presentation. He reviewed the history of UTOPIA and explained why fiber made sense and what the benefits of fiber were. Mayor Stevenson explained internet speed comparisons between fiber, broadband, etc. He reviewed information about the UTOPIA and UIA bonds and the cost to the City and citizens going forward.

Mayor Stevenson reviewed information about Macquarie and the proposal. He reviewed disadvantages and advantages of the Macquarie proposal.

Mayor Stevenson provided information about how UTOPIA could be a cost savings when compared to what the incumbents were charging. He reviewed information relative to potential citizen benefits.

Mayor Stevenson explained the problem the City was facing with the bond debt; even if the network went dark the City would still have to pay the bond debt. He explained that Layton City and West Valley were not built out like some of the other cities. Mayor Stevenson explained problems with shutting down the network. He indicated that Layton was on the hook for the bonds regardless if the system was shut down or not. Mayor Stevenson said the City was in the situation where there was no money to build out Layton City; status quo would not improve Layton's situation. He said Layton's payment was 2.6 million dollars a year now and would eventually go up to 4 million dollars a year. Mayor Stevenson said with the Macquarie deal the City would have service. He said this was a very difficult situation.

Mayor Stevenson introduced Councilmembers Petro, Brown and Day. He opened the meeting for questions.

A citizen asked what the operational status of UTOPIA was now.

Mayor Stevenson said Layton was only 12% built out. He said services were available in those areas and they were trying to maintain current service.

A citizen asked what it would cost to actually get internet service.

Mayor Stevenson explained that everyone would receive basic service at no additional cost.

Peter Ashdown with XMission said the utility fee would include free basic service. He said in order to use the network, they had to provide the basic service for free.

Mayor Stevenson said the \$20 fee would give everyone basic internet and telephone. He explained that the fee would not go up over time.

A citizen asked if more bonds would be issued.

Mayor Stevenson said no; all costs associated with building out the network would be covered by Macquarie.

A citizen asked what was to stop Macquarie from charging the ISPs more to lease the network.

Mayor Stevenson said he understood that the contract would include things such as that.

Gary Crane, Layton City Attorney, said Macquarie would be locked into the price for 30 years. He said Macquarie would not be involved in setting the transport fee; it would be controlled by the cities.

A citizen asked if net neutrality could be guaranteed.

Pete Ashdown said the reason Comcast was yanking Netflix around was because Netflix had no other choice; if he did that his customers would go to the competition.

A citizen stated that the 3 years to build out the network was unreasonable. He said the City was growing; would they accommodate new growth.

Mayor Stevenson said new developments were required to install fiber into their subdivisions. He said fiber was being installed now as subdivisions were being developed.

A citizen asked if the cities would be responsible for maintenance of the network.

Mayor Stevenson said no; Macquarie would cover that cost.

A citizen asked what would happen to Macquarie after 30 years.

Mayor Stevenson said a separate deal could be worked out at that time.

A citizen asked how this would affect services in the City; money was being poured into UTOPIA instead of services. Utility bills were continually going up, but no new services were being provided.

Mayor Stevenson said the most recent increase on the utility bills was a direct pass through from the sewer district; the street lighting fee was to update the City's street light system. He said money going to UTOPIA did come from the City's pocket and other things such as street improvements were suffering.

A citizen asked what the original bonds paid for.

Mayor Stevenson said they paid for infrastructure, especially in Lindon, Brigham City and Perry. He said very little infrastructure was installed in Layton.

A citizen stated that after the meeting last evening, he did some research. He presented his monthly July bills for telephone and internet services. He said he paid \$35 for telephone, another \$12 for long distance,

and another \$35 for internet, and he was paying for 12 Mbs but was actually receiving 3 to 5 Mbs. He said the total telephone bill was \$111 a month. He said the City had done some research and found a way for him to pay only \$20 a month for that same service. He said in addition, he had Direct TV and he was being charged \$180 a month for that service. The same services he was paying \$291 a month for were being offered in Provo for \$99 a month. He said he would take that savings any day of the month. He suggested that residents look at their bills and determine what this might do for them. He said there was already a demonstrated savings in other locations where there was competition.

Mayor Stevenson said the elected officials did not want to create a fee, but if citizens could be saving money it would be easier to swallow.

A citizen commented that copper was at the highest speed it could handle; it would fail with newer technology. He said going to fiber was good; we have outlived copper. The presentation indicated that 23,379 homes would be paying the fee; wouldn't businesses pay the fee too.

Mayor Stevenson said yes, businesses would be paying a slightly higher fee. He said the information in the presentation only looked at residences.

A resident asked if the phone service would be VOIP.

Councilmember Brown said it would be VOIP.

A citizen commented that there were 11 cities originally in UTOPIA. The cities voting to move forward with the Macquarie proposal was down to 6. What would happen if Layton was the only city standing?

Mayor Stevenson said Macquarie was in the process of studying the numbers. He said Orem was the most expensive city to build. Mayor Stevenson said Macquarie was coming back with additional information. He said the five cities that were not part of this proposal would not be walking away from the bonds or the operating costs; they would be paying more for the service and for updating their system.

A citizen asked if an opt-out option would be up to the City.

Mayor Stevenson said this was Macquarie's proposal to the City; the City would go back to Macquarie with its proposal. He said there had to be some way to opt-out of the system, but that had not been determined.

A citizen indicated that she lived on a private street that wasn't owned by the City. She asked if Macquarie would install fiber in her street and pay for the costs of repairing the road.

Mayor Stevenson said yes; there were still utilities in the private street. He said the large incumbent service providers would not spend the money to go into a costly area; Macquarie would go into every area.

A citizen said this all sounded good, but he cautioned the City to be careful to not put good money after bad money; don't make another bad decision. If all the information was favorable, he was in favor of going forward with it.

Mayor Stevenson said the money that would be put into the system would be Macquarie money, not additional bond money. He said if they failed the City would owe them nothing.

Gary Crane said Milestone 1 involved Macquarie vetting the larger provider companies; Milestone 2 would involve a lot of the work that would provide this type of information. Feasibility companies had been hired to review the information. He explained some of the things Alcatel Lucent and Fujitsu were doing in the world.

A citizen stated that the City should know the opt-out percentage before making the deal with Macquarie; all of this information was supposition. He said the City hadn't been very careful with its money.

A citizen commented that the City didn't know all of the details of the report; there would be an increase each year to the fee.

Mayor Stevenson said this was Macquarie's proposal; the cities would be going back to Macquarie with their proposal.

A citizen said if UTOPIA was in the red, who paid the bill.

Kurt Sudweeks, UTOPIA Financial Officer, said currently there were 8 million dollars in revenue; operating expenses were slightly higher than that. He said the cities were paying the shortage of operating costs.

A citizen indicated that over the 30 years, there would need to be a bunch of upgrades made to the system.

Mayor Stevenson said Macquarie would be paying for all upgrades to the system over the 30 year period.

A citizen commented that for \$20 a month for every home in the City Macquarie would make a lot of money.

Mayor Stevenson said no doubt; they were a company and their goal was to make money.

Gary Crane said Macquarie's return on investment was 13% when factoring in operating costs and costs to refresh the system.

A citizen indicated that the presentation was a sales presentation; the City needed to study the proposal and determine what could go wrong.

Gary Crane indicated that private legal counsel had been hired to review the proposal. He explained the experts that had been hired to review the information, and said additional experts would be hired if they were necessary.

A citizen stated that he had worked for 26 years in the telecom industry. He said 2 years ago he signed up for UTOPIA and the speed was phenomenal. He said he paid for 25 Mbs and was receiving 28 to 30. He said he had paid a fee to have that go to his house; would he continue to pay that fee.

Gary Crane said Macquarie was looking at the option of buying those installation fees or crediting that back to the people on their future bills.

A citizen asked what 30 Mbs would cost today.

A citizen said he had 100 Mbs and over three years the cost had gone down from \$120 to \$72 a month; and the speed was guaranteed.

A citizen said he understood that people who had fiber were very happy with the service and the cost. He said UTOPIA was broke because it wasn't charging enough for the services they provided. Macquarie would have the same problem.

Gary Crane said UTOPIA was not broke; they hadn't failed on any of their bonds. He said in comparison, the UTA line to Salk Lake City cost 9 billion dollars and serviced 1,400 people daily. Gary said

Macquarie's break even fee was the \$20 per household. He said how the City paid that, if they allowed opt-out options, would be up to the Council.

A citizen asked if the law changed in how cities could do fiber networks.

Gary Crane said the State Legislature only allowed cities to wholesale the network, not retail. The Legislature stopped the cities from doing what Spanish Fork was doing with their network, which had an 89% take rate.

A citizen asked if the ISPs would run lines into the house or only to the outside.

Brian Crane with Sumo Fiber said cable would be run into homes.

A citizen thanked the Mayor and Council for having these meetings to inform the public. He said the video clip of Kansas City talked about Google and how great fiber was, but Google paid for that network. He said he had a problem with businesses making money off of a forced fee. He asked if the 3 Mbs would stay at 3 Mbs for the 30 years when technology would go up. He asked if the cities would be getting other bids from other companies for taking over the network. He said this was a sales pitch; there needed to be information from the opposing side.

Mayor Stevenson said he thought another RFP had come in from First Digital and was being reviewed. He said the City was not trying to sell the citizens; this was what Macquarie was proposing and the City was just trying to gather information.

A citizen asked if Macquarie's track record had been vetted.

Alex Jensen, City Manager, said Macquarie didn't have a long track record in the United States for doing this type of infrastructure; they did have extensive experience in the United States and worldwide in constructing, managing and refreshing public infrastructure. He said Macquarie managed over 360 billion dollars in infrastructure for things such as ports and mass transit facilities. Alex said Macquarie was hired by England to provide all of the telecommunication services for the London Olympics and they built and operated the emergency radio system for the United Kingdom. He said this was a relative small project for Macquarie. Alex said Macquarie was the leading public, private partnership financier and operator in the world.

A citizen said if 5 out of the 11 cities had already said no to the proposal that spoke volumes. He said maybe the City needed to consider that. He said he was concerned that this was a forced tax on residents that would be a great benefit for Macquarie.

A citizen asked if this was a fixed cost contract.

Alex Jensen said the proposed contract was a fixed cost contract for the construction of the network. He said it would also provide for a specific completion date. Alex said if the cost was not met, or the date was not met, Macquarie was responsible for the ultimate costs or damages associated with that.

A citizen recommended that the City put together a committee to review the proposal back to Macquarie that included local business members and IT professionals.

A citizen asked if anyone had approached the incumbents to purchase the network. The City needed to look at other ways to get out of the debt.

Mayor Stevenson said the UTOPIA network was an open system, which meant that anyone could provide services over the network. He said CenturyLink would want the system closed.

A citizen said there had been a lot of comments about not making the citizens pay for this, but everyone was already paying for the bonds. He said now it was out in the open and the fee would be better identified. He said UTOPIA was a good idea 12 years ago and it was still a good idea. He said his concern was what was different about what was being decided today over what was decided 12 years ago. He said something failed; the business model or mismanagement. He said he wanted to make sure we didn't make the same mistake again; if it was UTOPIA's mismanagement he would love to see UTOPIA get jettisoned somehow. He said the incumbents poured a lot of money into anti-UTOPIA propaganda.

A citizen asked why UTOPIA didn't have to pay for failing to fulfill their end of the contract.

Alex Jensen said UTOPIA was not a separate organization from the cities; UTOPIA was an entity created by the cities. He said the cities were UTOPIA and UTOPIA was the cities. Alex said the cities did not band together and hire an outside organization to build and operate the network; the cities did that themselves. He said there was originally a consultant that was involved in that process; there was no outside entity to terminate a contract with. Alex said there had been turnover in staffing and management, and changes that had occurred throughout the years with an effort to rely less on the cities' personnel because this was different from what most cities were involved in. He said there was no outside third party that had not performed on their agreement. Alex said there had been other issues with the federal government and loans that had been promised and not delivered, and mistakes had been made.

Alex said the biggest problem was that over time, as the project had floundered and flailed a little bit, some cities had lost the political will to stay involved and see it through. He said every two years new elected officials came on board that may or may not support it, and a reeducation process had to be done. Alex said in his view this was the primary reason why the cities had gotten to this point. He said the network was continuing to be built, and for the last three years, under the new model, UIA had been making enough money to cover all of its debt for operational expenses. Alex said the problem was that the original debt was not being covered and for the foreseeable future would not be covered. He said without this or a similar proposal the system would continue to limp along.

A citizen said the 30 to 50% take rate had never been realized when they offered a free service; this was an unproven model. He said the 20 GB was a hard cap; when you had VOIP and you hit a hard cap the phone would not work whether you were trying to dial 911 or your neighbor. He said the City needed to make sure there was not a hard cap in this deal.

Mayor Stevenson said the Council and other cities had talked about this.

Peter Ashdown said Macquarie had been open to discussion of not hard capping or lowering speed so that residents could still get VOIP.

Mayor Stevenson thanked everyone for their input. He said the Council was working very hard to get all the information they needed to make a good decision.

The meeting adjourned at 9:41 p.m.

Thieda Wellman, City Recorder